

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DAVID HARRINGTON,

Plaintiff,

-against-

9:13-CV-0795 (LEK/RFT)

DR. VADLAMUDI; and
SANDRA MARTIN SMITH,

Defendants.

ORDER

This matter comes before the Court following a Report-Recommendation filed on September 2, 2014, by the Honorable Randolph F. Treece, U.S. Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3. Dkt. No. 28 (“Report-Recommendation”).

Within fourteen days after a party has been served with a copy of a magistrate judge’s report-recommendation, the party “may serve and file specific, written objections to the proposed findings and recommendations.” FED. R. CIV. P. 72(b); L.R. 72.1(c). If no objections are made, or if an objection is general, conclusory, perfunctory, or a mere reiteration of an argument made to the magistrate judge, a district court need review that aspect of a report-recommendation only for clear error. Chylinski v. Bank of Am., N.A., 434 F. App’x 47, 48 (2d Cir. 2011); Barnes v. Prack, No. 11-CV-0857, 2013 WL 1121353, at *1 (N.D.N.Y. Mar. 18, 2013); Farid v. Bouey, 554 F. Supp. 2d 301, 306-07 & n.2 (N.D.N.Y. 2008); see also Machicote v. Ercole, No. 06 Civ. 13320, 2011 WL 3809920, at *2 (S.D.N.Y. Aug. 25, 2011) (“[E]ven a *pro se* party’s objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate’s proposal, such that no party be allowed a second bite at the apple by simply relitigating a prior

argument.”).

Plaintiff filed a Letter seeking guidance as to the procedure for amending a complaint, but did not object to the Report-Recommendation. Dkt. No. 31. The Court therefore reviews the Report-Recommendation for clear error and finds none.

Accordingly, it is hereby:

ORDERED, that the Report-Recommendation (Dkt. No. 28) is **APPROVED and ADOPTED in its entirety**; and it is further

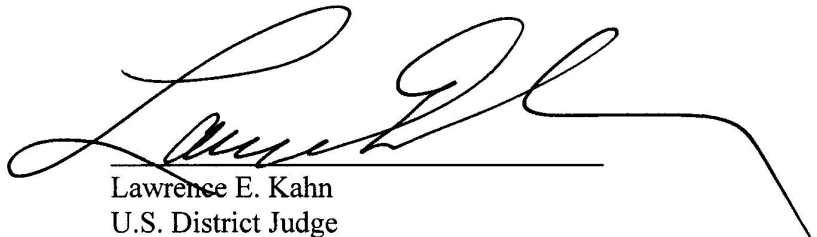
ORDERED, that Defendants’ Motion (Dkt. No. 16) to dismiss Plaintiff’s claims under the Americans with Disabilities Act and the Rehabilitation Act is **GRANTED**; and it is further

ORDERED, that Plaintiff’s claims under the Americans with Disabilities Act and the Rehabilitation Act are **DISMISSED with leave to amend**. If Plaintiff wishes to proceed with these claims, he must file, **within thirty (30) days** of the filing date of this Order, an amended complaint that remedies the deficiencies identified in the Report-Recommendation; and it is further

ORDERED, that the Clerk of the Court serve a copy of this Order on the parties to this action in accordance with the Local Rules.

IT IS SO ORDERED.

DATED: September 29, 2014
Albany, New York


Lawrence E. Kahn
U.S. District Judge